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06 February 2006

UZF100742.E

Uzbekistan: Domestic violence; protection available (2003 - 2005)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

A news article dated 19 April 2004 noted that "[t]here are no statistics on levels of domestic violence in Uzbekistan, and no legislation protecting women from it" (UN 19 Apr. 2004). According to *Country Reports 2004* domestic violence "remained a common problem" (28 Feb. 2005, Sec. 5). The news article published by the United Nations' Integrated Regional Information Networks stated that domestic violence in Uzbekistan continued to be

a serious problem, against which the government has failed to take effective measures ... state policies intended to keep families together and foster community assistance to those families experiencing conflict have compounded the situation of women facing abuse in the home, and often prevent them from obtaining either relief or redress (19 Apr. 2004).

Muissar Maksudova of the Women's Resource Centre, a non-governmental organization (NGO) in Tashkent, noted in the same article that "[t]he rate of violence in the home is rising ... [p]artly due to increasing poverty and partly due to a national regression to 'traditional' family values that do not recognise women's rights" (UN 19 Apr. 2004).

In a 2005 assessment, the World Organisation Against Torture (OMCT) reported that in Uzbekistan,

[e]arly marriages, polygamy, [and] domestic violence are interpreted as woman protection, or otherwise as a punishment she deserved for not respecting patriarchal patterns of behavior. Writers, politicians, cultural workers and the media are pointing at the low level of understanding of gender equality in society among law enforcement agents and members of the judiciary. For example, judges have no gender sensitive training (World Organisation Against Torture Apr. 2005).

Gulnaz Khidoyatova, head of the NGO Tashkent Legal Training Center, indicated that "domestic violence [was] especially extensive in ... cases of early marriages, since many of the young brides do not understand and, furthermore, they are not ready to resist and to protect themselves from the humiliation and ill-treatment" (ibid. 28 Feb. 2005).

According to the Stop Violence Against Women (VAW) Website, "Uzbek law does not specifically punish domestic violence" (16 July 2004; *Country Reports 2004* 28 Feb. 2005, Sec. 5). Human Rights Watch (HRW) reported that Criminal Code Articles 97, 98 and 104 to 111 can be used to punish offenders in cases of domestic violence (July 2001, StopVAW 16 July 2004). However, no information on the application of this legislation could be found among the sources consulted by the Research Directorate. The applicable articles read as follows :

Article 97. Intentional Killing

Intentional killing shall be punished by imprisonment [for between] ten and fifteen years.

Aggravated intentional killing, that is:

- a. - of at least two persons;
- b. - of a woman known to be pregnant;
- c. - of a person known to be helpless;

- d. - of a person or his close relatives in connection with his performing a professional or civil duty;
- e. - by a way endangering other people's lives;
- f. - during a riot;
- g. - with abnormal brutality;
- h. - with rape or forced sexual intercourse in an unnatural form;
- i. - from mercenary motives;
- j. - due to ethnic or religious hatred;
- k. - due to hooliganism;
- l. - due to religious prejudices;
- m. - with a purpose of obtaining a transplant or using parts of a corpse;
- n. - with a purpose to conceal a crime or to facilitate commission thereof;
- o. - committed by a group of individuals, or by a member of an organized criminal group in its interests;
- p. - committed repeatedly or by a dangerous recidivist;
- q. - committed by a special dangerous recidivist

shall be punished with imprisonment from fifteen up to twenty years or by capital penalty.

Article 98. Intentional Killing in Heat of Passion

Intentional killing in a heat of passion caused by lawless violence or great insult by a victim, as well as by a lawless action by a victim shall be punished with imprisonment up to five years.

Article 104. Intentional Infliction of Serious Bodily Injury

Infliction of intentional serious bodily injury endangering life at the moment of inflicting thereof or causing a loss of eyesight, of hearing, aphasia, or a member of a body, or disability of a member of a body, mental or any other illness, aggravated by stable disability over thirty three per cent, or interruption of pregnancy, or disfigurement of a body shall be punished with imprisonment from three to five years.

Intentional serious bodily injury inflicted:

- a. - to a woman known to be pregnant;
- b. - to a person or his close relatives in connection with his performing a professional or civil duty;
- c. - with abnormal brutality;
- d. - during a riot;
- e. - from mercenary motives;
- f. - due to hooliganism;
- g. - due to ethnic or religious hatred;
- h. - due to religious prejudices;

i. - with a purpose of obtaining a transplant

j. - by a group of individuals

shall be punished with imprisonment from five to eight years.

Intentional serious bodily injury:

a. - inflicted to at least two persons;

b. - inflicted repeatedly, by a dangerous recidivist, or by a person who previously committed a intentional killing envisaged by Article 97;

c. - inflicted by a special dangerous recidivist;

d. - inflicted by a member of an organized criminal group in its interests;

e. - resulting in a death of a victim

shall be punished with imprisonment from eight to ten years.

(As amended by the Law of 29.08.2001).

Article 105. Intentional Infliction of Medium Bodily Injury

Intentional infliction of medium bodily injury not endangering life at the moment of inflicting thereof and not resulting in consequences envisaged by Article 104 of this Code, but resulting in a durable illness from twenty-one day[s] to four months, or significantly stable disability from ten to thirty three per cent

shall be punished with correctional labor up to three years or by imprisonment up to three years.

Intentional serious medium bodily injury inflicted:

a. - to at least two persons;

b. - to a woman known to be pregnant;

c. - to a person or his close relatives in connection with his performing a professional or civil duty;

d. - with abnormal brutality;

e. - during a riot;

f. - from mercenary motives;

g. - due to hooliganism;

h. - due to ethnic or religious hatred;

i. - due to religious prejudices;

j. - committed by a member of an organized criminal group in its interests;

k. - inflicted repeatedly, by a dangerous recidivist, or by a person [who has] previously inflicted an intentional serious bodily injury envisaged by Article 104, or committed a[n] intentional killing envisaged by Article 97;

l. - inflicted by a special dangerous recidivist

shall be punished with imprisonment from eight to ten years.

Article 106. Infliction of Serious or Medium Bodily Injury in Heat of Passion

Inflicting serious or medium bodily injury in heat of passion caused by lawless violence or great insult by a victim, as well as by a lawless action by a victim that resulted in or could have resulted in a death or danger to health of a guilty person or a person close to him

shall be punished with correctional labor up to two years or arrest up to six months, or imprisonment up to three years.

Article 107. Infliction of Serious or Medium Bodily Injury in Excess of Self-Defense

Inflicting serious or medium bodily injury in excess of self-defense

shall be punished with correctional labor up to two years or arrest up to six months.

Article 108. Intentional Infliction of Serious or Medium Bodily Injury by Abuse When Apprehending Person Committed Socially Dangerous Act

Intentional inflicting [of] serious or medium bodily injury by abuse when apprehending a person [who has] committed a socially dangerous act

shall be punished with correctional labor up to two years or arrest up to six months.

Article 109. Infliction of Trivial Bodily Injury

Infliction of trivial bodily injury that [has] not caused temporary illness or minor stable disability inflicted after imposing administrative penalty for the same action

shall be punished with [a] fine [of] up to twenty-five minimal monthly wages or correctional labor up to one year or arrest up to three months.

Infliction of trivial bodily injury that [has] resulted in temporary illness from six to twenty-one day[s] or minor stable disability

shall be punished with [a] fine [of] from twenty-five to fifty minimal monthly wages or correctional labor to two years or arrest to four months.

Article 110. Tormenting

Systematic battery or other actions of tormenting, if they have not caused the consequences envisaged in Articles 104, 105 of this Code

shall be punished with correctional labor up to two years or arrest up to six months, or imprisonment up to three years.

The same actions committed in respect of:

- a. - a juvenile;
- b. - a woman known to be pregnant;
- c. - a person known to be helpless

shall be punished with correctional labor from two to three years or imprisonment up to five years.

Article 111. Reckless Inflicting [of] Medium or Serious Bodily Injury

Reckless inflicting [of] a medium bodily injury

shall be punished with [a] fine [of] up to twenty-five minimal monthly wages or correctional labor up to two years.

Reckless inflicting [of] a serious bodily injury

shall be punished with [a] fine [of] from twenty-five to fifty minimal monthly wages or correctional labor up to two years, or arrest up to three months.

Reckless inflicting [of] a medium or serious bodily injury to at least two persons

shall be punished with [a] fine [of] from fifty to seventy-five minimal monthly wages or arrest from four to six months.

(As amended by the Law of 29.08.2001) (Uzbekistan 22 Sep. 1994).

In a news article published by IRIN, a woman indicated that after she was beaten by her husband, she "applied to the court, but the judicial officials didn't protect [her] rights" (UN 19 Apr. 2004). *Freedom in the World 2005* indicated that "[v]ictims of domestic violence are discouraged from pressing charges against their perpetrators, who rarely face criminal persecutions" (Freedom House 2005; see also *Country Reports 2004* 28 Feb. 2005, Sec. 5).

Country Reports 2004 indicated that some NGOs were working with local government and mahalla committees in educational programs to prevent domestic violence (ibid.). However, United Nations noted that a 2003 Human Rights Watch (HRW) Report claimed that mahallas had been used to "enforce government policy to prevent divorce at the expense of women's rights to protection from domestic violence" (Freedom House 2004, UN 19 Apr. 2004). For more information on mahalla committees in Uzbek society please consult UZB42472.E dated 7 April 2004.

Please consult the attached document, published on the World Organisation Against Torture Website, which provides information on domestic violence and government response to it in Uzbekistan, as well as information on centers for victims of domestic violence, studies about the situation of domestic violence, and portrayal of domestic violence (28 Feb. 2005).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

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Additional Sources Consulted

Internet sites, included: Amnesty International (AI), Central Asia-Caucasus Institute, Commission on Security and Cooperation in Europe, Eurasianet.org, European Union, Human Rights Internet, Gender Studies Central-Asian Network, International Committee of the Red Cross (ICRC), International Federation for Human Rights (FIDH), International Helsinki Federation for Human Rights (IHF), The Network of East-West Women Polska/NEWW, Transitions Online, UN CEDAW, Uzbekistan Development Gateway, Women's Aid, UK House of Commons - Foreign Affairs Committee.

Attachment

World Organisation Against Torture and Legal Aid Society. 28 February 2005. *State Violence in Uzbekistan: An Alternative Report to the United Nations Human Rights Committee*.
<http://www.omct.org/pdf/procedures/2005/s_violence_uzbekistan_2_2005_eng.pdf> [Accessed 15 Dec. 2005]

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